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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,041

02/02/2006

Timothy J. Everett

GB030132

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09/17/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

BEAULIEU, YONEL

ART UNIT

PAPER NUMBER

3661

MAIL DATE

DELIVERY MODE

09/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/567,041	<b>Applicant(s)</b> EVERETT, TIMOTHY J.	
	<b>Examiner</b> /Yonel Beaulieu/	<b>Art Unit</b> 3661	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/16/07</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5428544 to Shyu.

Regarding the above claims, Shyu teaches assessing the movement of articles (vehicles) moving along opposite paths of movement (see figs. 1-2) , each of the articles having transceiving means (formed by items 4 and 7) and means (1) for monitoring a performance characteristic of the article, comprising each of the articles moving along a first of the paths of movement transmitting data derived from the monitored performance characteristic, and at least one article moving along a second of the paths of movement receiving transmissions from the articles moving along the first of the paths of movement (path of movement supported by item 3), making an assessment of the nature of movement of the articles along the first path of movement from the data derived from the monitored performance characteristic, producing (displaying on item 81) a report containing the assessment and transmitting the report for reception by subsequent articles moving along the first of the paths of movement (overall, note col. 1, lines 58 – 66; col. 2, lines 19 – 43; col. 3, lines 30 – 59; and col. 4, line 18).

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Claims 1 – 11 are further rejected under 35 U.S.C. 102(b) as being anticipated by USP 4706086 (Panizza) as supported in figs. 2 – 5 and col. 2, lines 12 – 18 and 60 – 65; col. 3, lines 1 – 18; and col. 4, lines 22 – 52).

Claims 1 – 11 are furthermore rejected under 35 U.S.C. 102(b) as being anticipated by US 6236337 to Beier et al. as supported by figs. 1-2 and col. 1, lines 30 - 55; col. 2, lines 29 – 67; and col. 3, lines 24 – 26 at least).

Claims 1 – 11 are furthermore rejected under 35 U.S.C. 102(b) as being anticipated by US 6369720 to Wilhem as supported by figs. 1-2 and col. 2, lines 25 – 65 at least).

Claims 1 – 11 are furthermore rejected under 35 U.S.C. 102(b) as being anticipated by US 6236337 to Binnig as supported by fig. 1 and col. 2, lines 39 – 42; and col. 3, lines 30 - 65 at least).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. As per attached PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Yonel Beaulieu/ whose telephone number is (571) 272-

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6955. The examiner can normally be reached on Mon., Wed. & Thur. between 0900 and 1600.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yonel Beaulieu/  
Yonel Beaulieu  
Primary Examiner  
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